



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC032

Taking and Importing Marine Mammals; Precision Strike Weapon and Air-to-Surface Gunnery Training and Testing Operations at Eglin Air Force Base, FL

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for a Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received an application from the U.S. Department of the Air Force, Headquarters 96th Air Base Wing (U.S. Air Force), Eglin Air Force Base (Eglin AFB) for authorization to take marine mammals, by harassment, incidental to testing and training activities associated with Precision Strike Weapon (PSW) and Air-to-Surface (AS) gunnery missions, both of which are military readiness activities, at Eglin AFB, FL from approximately September 2012, to September 2017. Pursuant to Marine Mammal Protection Act (MMPA) implementing regulations, NMFS announces receipt of the U.S. Air Force's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the U.S. Air Force's application and request.

DATES: Comments and information must be received no later than [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. The mailbox address for providing email comments is ITP.Hopper@noaa.gov. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see FOR FURTHER INFORMATION CONTACT), or visiting the internet at:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Brian D. Hopper, Office of Protected Resources, NMFS, 301-427-8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see FOR FURTHER INFORMATION CONTACT), or visiting the internet at:

<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

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Background

In the case of military readiness activities (as defined by section 315(f) of Public Law 107-314; 16 U.S.C. 703 note), sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued, or if the taking is limited to harassment an Incidental Harassment Authorization (IHA) is issued. Upon making a finding that an application for incidental take is adequate and complete, NMFS commences the incidental take authorization process by publishing in the Federal Register a notice of a receipt of an application for the implementation of regulations or a proposed IHA.

An authorization for the incidental takings may be granted if NMFS finds that the total taking during the relevant period will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods

of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth to achieve the least practicable adverse impact.

NMFS has defined "negligible impact" in 50 CFR 216.103 as: ...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

With respect to military readiness activities, the MMPA defines “harassment” as: (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or behavioral patterns are abandoned or significantly altered (Level B harassment).

Summary of Request

On December 30, 2011, NMFS received an application from the U.S. Air Force requesting an authorization for the take of marine mammals incidental to PSW and AS gunnery testing and training operations. The requested regulations would establish a framework for authorizing incidental take in future Letters of Authorization (LOA). These LOAs, if approved, would authorize the take, by Level A (physiological) and Level B (behavioral) harassment, of Atlantic bottlenose dolphin (Tursiops truncatus) and Atlantic spotted dolphin (Stenella frontalis) incidental to PSW testing and training activities. Takes of dwarf sperm whale (Kogia simus), pygmy sperm whale (K. breviceps), Atlantic bottlenose dolphins (Tursiops truncatus), Atlantic spotted dolphin

(Stenella frontalis), pan tropical spotted dolphin (S. attenuate), and spinner dolphin (S. longirostris) by Level B harassment would also be authorized incidental to AS gunnery testing and training operations. PSW missions would involve air-to-surface impacts of two weapons: (1) the Joint Air-to-Surface Stand-off Missile (JASSM) AGM-158 A and B; and (2) the small diameter bomb (SDB) (GBU-39/B), which result in underwater detonations of up to approximately 300 lbs (136 kg) and 96 lbs (43.5 kg, double SDB) of net explosive weight (NEW), respectively. AS gunnery missions would involve surface impacts of projectiles and small underwater detonations. Pursuant to the MMPA, NMFS issued regulations and annual LOAs for PSW activities from 2006 to 2011, and annual Incidental Harassment Authorizations for AS gunnery activities in 2006, 2007, 2008, 2009, 2010, and 2011.

Description of the Specified Activities

This section describes the PSW and AS gunnery testing and training missions that have the potential to affect marine mammals present within the test area. Both are considered to be a “military readiness activity” as defined under 16 U.S.C. 703 note, and involve detonations above the water, near the water surface, and under water within the EGTTT. The PSW missions involve the two weapons identified above, the JASSM and SDB, and AS gunnery missions typically involve the use of 25-mm, 40-mm, and 105-mm gunnery rounds. These activities are described in more detail in the following paragraphs.

PSW Missions

The JASSM is a precision cruise missile designed for launch from a variety of aircraft at altitudes greater than 25,000 ft (7.6 km). The JASSM has a range of more than

200 nautical miles (370.4 km) and carries a 1,000-pound warhead. The JASSM has approximately 300 lbs of TNT equivalent net explosive weight (NEW). After launch from the aircraft, the JASSM cruises at altitudes greater than 12,000 ft (3.7 km) for the majority of its flight until making the terminal maneuver towards the target. The testing exercises involving the JASSM would consist of a maximum of two live shots (single) and four inert shots (single) during the year. One live shot will detonate in water and one will detonate in air. Detonation of the JASSM would occur under one of the following three scenarios: (1) detonation upon impact with the target (about 1.5 m above the water's surface); (2) detonation upon impact with a barge target at the surface of the water; or (3) detonation at 120 milliseconds after contact with the surface of the water.

The SDB is a GPS-guided bomb that can be carried and launched from most USAF aircraft, which makes it an important element of the USAF's Global Strike Task Force. The SDB has a range of up to 50 nautical miles and carries a 217-lb warhead. The SDB has approximately 48 lbs of TNT equivalent NEW. After being released from the aircraft at an altitude greater than 15,000 ft (4.6 km), the SDB deploys "Diamond Back" type wings that increase glide time and range as it descends towards the target. Exercises involving the SDB consist of a maximum of six live shots with two of the shots occurring simultaneously, and a maximum of 12 inert shots with up to two occurring simultaneously.

Chase aircraft will accompany the launch of JASSM and SDB ordnance. Chase aircraft include F-15, F-16, and T-38 aircraft. These aircraft would follow the test items during captive carry and free flight, but would not follow either item below a predetermined altitude as directed by Flight Safety. Other airborne assets on site may

include an E-9 turboprop aircraft or MH-60/53 helicopters circling around the target location. Tanker aircraft, including KC-10s and KC-135s, would also be used for aerial refueling of aircraft involved in training exercises. In addition, an unmanned barge may also be on location to hold instrumentation. If used, the barge would be up to 1,000 ft (304.8 m) away from the target location.

Based on availability, there are two possible target types to be used for the PSW mission tests. The first is a Container Express (CONEX) target (see figure 1-4 in Eglin AFB's application) that consists of five containers strapped, braced, and welded together to form a single structure. The dimensions of each container are approximately 8 ft by 8 ft by 40 ft (2.4 m by 2.4 m by 12.2 m). Each container would contain 200 55-gallon steel drums (filled with air and sealed) to provide buoyancy for the target. The second type of target is a hopper barge, which is a non-self propelled vessel typically used for transportation of bulk cargo (see figure 1-5 in Eglin AFB's application). A typical hopper barge is approximately 30 ft by 12 ft and 125 ft long (9.1 m by 3.7 m and 38.1 m long). The targets would be held in place by a 4-point anchoring system using cables.

PSW testing and training activities conducted by Eglin AFB would occur in the northern GOM in the EGTTR. Targets would be located in water less than 200 ft (61 m) deep and from 15 to 24 nm (27.8 to 44.5 km) offshore, south of Santa Rosa Island and south of Cape San Blas Site D3-A. PSW test missions may occur during any season of the year, but only during daytime hours.

AS Gunnery Missions

AS gunnery missions involve the firing of 25-mm, 40-mm, and 105-mm gunnery rounds from a circling AC-130 gunship. Each round contains 30 g, 392 g, and 2.1 kg of

explosive, respectively. Live rounds must be used to produce a visible surface splash that must be used to “score” the round (the impact of inert rounds on the sea surface would not be detected). The U.S. Air Force has developed a 105-mm training round (TR) that contains less than 10 percent of the amount of explosive material (0.16 kg) as compared to the “Full-Up” (FU) 105-mm round. The TR was developed as one method to mitigate effects on marine life during nighttime AS gunnery exercises when visibility at the water surface is poor. However, the TR cannot be used in the daytime because the amount of explosive material is insufficient to be detected from the aircraft. To establish the test target area, two Mk-25 flares are deployed or a target is towed into the center of a 9.3 km cleared area on the water’s surface. A typical gunship mission lasts approximately 5 hrs without refueling and 6 hrs when air-to-air refueling is accomplished.

Water ranges within the EGTTR that are typically used for AS gunnery operations are located in the GOM offshore from the Florida Panhandle (areas W-151A, W151B, W-151C, and W-151D as shown in Figure 1-9 in the Eglin AFB application). Data indicate that W-151A (Figure 1-10 in the Eglin AFB application) is the most frequently used water range due to its proximity to Hurlburt Field, but activities may occur anywhere within the EGTTR. Eglin AFB proposes to conduct AS gunnery missions year round during both daytime and nighttime hours.

Additional information on the Eglin AFB training operations is contained in the application, which is available upon request (see ADDRESSES).

Information Solicited

Interested persons may submit information, suggestions, and comments related to the U.S. Air Force’s request (see ADDRESSES). All information, suggestions, and

comments related to the U.S. Air Force's PSW and AS gunnery testing and training operations request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by Eglin AFB's PSW and AS gunnery testing and training operations will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of Letters of Authorization.

Dated: June 22, 2012.

Helen M. Golde,
Acting Director,
Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2012-15925 Filed 06/27/2012 at 8:45 am; Publication Date: 06/28/2012]